
By: **Allegany County Delegation**
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CHAPTER _____

1 AN ACT concerning

2 **Real Property - ~~Unpossessed-Vacant~~ Abandoned Land - Certificate of**
3 **Reservation for Public Use**

4 FOR the purpose of providing that, with respect to ~~unpossessed-vacant~~ abandoned
5 land, a certificate of reservation for public use remains in effect until a unit of
6 State government or a court of competent jurisdiction determines that a person
7 who has claimed legal title to the land has established legal title to the land;
8 authorizing a person who claims legal title to ~~unpossessed-vacant~~ abandoned
9 land for which a certificate of reservation for public use has been issued to file a
10 certain written claim under certain circumstances; requiring that if a unit of
11 State government that reserved land for public use determines that a claimant
12 has legal title to the land, the unit of State government shall either ~~mail~~ make
13 a certain payment to the claimant or notify the Commissioner of Land Patents
14 that the land is no longer needed for public use; providing that ~~any action~~
15 certain actions taken by a unit of State government ~~pursuant to~~ under this Act
16 ~~is~~ are subject to approval by the Board of Public Works; requiring that, if a unit
17 of State government that reserved land for public use determines that the
18 claimant does not have legal title to the property, the unit of State government
19 shall issue a written denial of the claimant's claim; authorizing a claimant who
20 is aggrieved by the denial of a claim under this Act to file a certain action;
21 providing that a claim under this Act is barred unless the claimant files a claim
22 within a certain amount of time; authorizing an applicant for a certificate of
23 reservation for public use of ~~unpossessed-vacant~~ abandoned land to submit a
24 certain legal description of the land in lieu of a certain survey; providing that
25 certain provisions of the law related to escheated property do not apply to any
26 portion of a decedent's estate comprised of land that is the subject of an
27 application for a certificate of reservation for public use; authorizing the
28 Department of Natural Resources to apply for a certificate of reservation for

1 public use of ~~unpossessed vacant~~ abandoned land; defining certain terms; and
 2 generally relating to ~~unpossessed vacant~~ abandoned land and certificates of
 3 reservation for public use.

4 BY repealing and reenacting, with amendments,
 5 Article - Real Property
 6 Section 13-101, 13-106, and 13-306
 7 Annotated Code of Maryland
 8 (1996 Replacement Volume and 2002 Supplement)

9 BY adding to
 10 Article - Real Property
 11 Section 13-107
 12 Annotated Code of Maryland
 13 (1996 Replacement Volume and 2002 Supplement)

14 BY repealing and reenacting, with amendments,
 15 Article - Estates and Trusts
 16 Section 3-105
 17 Annotated Code of Maryland
 18 (2001 Replacement Volume and 2002 Supplement)

19 BY repealing and reenacting, with amendments,
 20 Article - Natural Resources
 21 Section 5-207
 22 Annotated Code of Maryland
 23 (2000 Replacement Volume and 2002 Supplement)

24 Preamble

25 ~~WHEREAS, The State owns and manages over 400,000 acres of State forests~~
 26 ~~and parks; and~~

27 WHEREAS, Small, isolated tracts of land that are not owned by the State are
 28 located entirely within and adjacent to ~~the State forest and parks, particularly Green~~
 29 ~~Ridge State Forest; and~~

30 WHEREAS, The owners of the tracts of land are unknown, the title to the tracts
 31 of land is uncertain, and no person has actually been in possession of the tracts of
 32 land, under claim of title or otherwise, for a continuous period of 20 years; and

33 WHEREAS, The presence of small, isolated, private tracts of land within a ~~State~~
 34 ~~forest or park~~ Green Ridge State Forest makes it difficult for the State to manage the
 35 entire forest as a whole for the benefit of the public; and

1 WHEREAS, It is in the public interest to return the isolated tracts of land to
2 public use and at the same time to preserve the rights of the actual owners of the
3 tracts of land in the event that such unknown owners subsequently come forward to
4 claim title to the tracts of land; now, therefore,

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Real Property**

8 13-101.

9 (a) In this title the following words have the meanings indicated unless
10 otherwise apparent from context.

11 (b) "Certificate of reservation" means a certificate issued by the Commissioner
12 at the request of a governmental body upon a determination that vacant land OR
13 ABANDONED LAND exists and the governmental body wishes to reserve the land for
14 public use.

15 (c) "Commission" means the Hall of Records Commission.

16 (d) "Commissioner" means the State Archivist who, while performing the
17 duties and exercising the powers provided in this title, is known as the
18 "Commissioner of Land Patents".

19 (e) "Expense" includes any charge, cost, deposit, fee, or tax incurred in
20 connection with a land patent proceeding.

21 (f) "Governmental body" includes any unit of State government, any county or
22 municipal corporation, or any agency or instrumentality of any county or municipal
23 corporation.

24 (g) (1) "Land" means any area of land in the State, including any two or
25 more areas of land with a common boundary for at least part of their perimeters.

26 (2) "Land" includes vacant land AND ABANDONED LAND.

27 (3) "Land" does not include any area covered by navigable water unless
28 it was included in a patent issued before March 3, 1862.

29 (h) "Mail" means to deposit in the United States mails, postage prepaid,
30 endorsed "Restricted Delivery -- Return Receipt Requested".

31 (i) "Patent" means:

32 (1) Any grant confirmed by Article 5 of the Declaration of Rights of the
33 State Constitution;

1 (2) Any valid grant made under prior law by the State of its interests in
2 any vacant, resurveyed, escheat, or confiscated land; or

3 (3) Any grant made under this title by the State of its interest in any
4 land.

5 (j) "Public use" means use by or for the benefit of the public.

6 (k) "Survey", whether used as a noun or as a verb in any form or tense, means:

7 (1) The act of surveying any vacant land in order to obtain a patent for
8 the land; or

9 (2) The act of resurveying any land for which a patent previously was
10 issued in order to obtain a new patent for the land.

11 (l) "Surveyor" means any professional land surveyor or property line surveyor
12 licensed under the Maryland Professional Land Surveyors Act.

13 (m) ~~"UNPOSSESSED VACANT ABANDONED LAND"~~ MEANS VACANT LAND THAT
14 HAS BOUNDARIES THAT ARE LOCATED WITHIN OR CONTIGUOUS TO A GREEN RIDGE
15 STATE FOREST ~~OR PARK FOR WHICH A PATENT MAY HAVE BEEN ISSUED BUT WHICH:~~

16 (1) FOR WHICH NO PROPERTY TAX PAYMENT HAS BEEN MADE WITHIN 20
17 YEARS IMMEDIATELY PRECEDING THE DATE OF AN APPLICATION FOR A
18 CERTIFICATE OF RESERVATION FOR PUBLIC USE BY A UNIT OF STATE GOVERNMENT;
19 AND

20 (2) WHICH HAS NOT BEEN ACTUALLY POSSESSED BY A PERSON, UNDER
21 CLAIM OF TITLE OR OTHERWISE, FOR A CONTINUOUS PERIOD OF 20 YEARS
22 IMMEDIATELY PRECEDING THE DATE OF AN APPLICATION FOR A CERTIFICATE OF
23 RESERVATION FOR PUBLIC USE BY A UNIT OF STATE GOVERNMENT.

24 (N) "Vacant land" means land for which a patent never has been issued or for
25 which the applicant believes that a patent never has been issued.

26 [(n)] (O) "Verify" means to state in writing, under penalties of perjury, that the
27 matters and facts set forth in the document to which the statement relates are true
28 and complete to the best of the knowledge, information, and belief of the person
29 making the statement.

30 13-106.

31 (a) (1) A governmental body may reserve vacant land OR ABANDONED LAND
32 by obtaining from the Commissioner a certificate of reservation for public use.

33 (2) Except as otherwise provided, the provisions of this title applicable to
34 the granting of land patents are applicable to the granting of certificates of
35 reservation.

1 (b) (1) In order to reserve vacant land OR ABANDONED LAND for public use,
2 a unit of State government must notify and obtain the approval of the Board of Public
3 Works.

4 (2) If the Board approves the request, the unit shall immediately apply
5 for a certificate of reservation.

6 (c) (1) (i) The application of a governmental body for a certificate of
7 reservation takes precedence over an application of a person for a patent to all or part
8 of the same land.

9 (ii) The application of a unit of State government takes precedence
10 over the application of any other governmental body.

11 (2) As a condition of granting a certificate of reservation, the
12 Commissioner may order a governmental body to pay the reasonable expenses of a
13 person whose application for a patent has been superseded.

14 (d) If no objection to an application for a reservation of land is filed and the
15 Commissioner determines that a vacancy exists, the Commissioner may decide the
16 matter without holding a hearing.

17 (e) (1) A certificate of reservation remains in effect:

18 (I) [until] UNTIL the Board of Public Works or, in the case of a
19 governmental body other than a unit of State government, the appropriate local
20 authority determines that the land is no longer needed for public use by the
21 governmental body and notifies the Commissioner of this determination; OR

22 (II) WITH RESPECT TO ~~UNPOSSESSED VACANT~~ ABANDONED LAND,
23 UNTIL A UNIT OF STATE GOVERNMENT OR A COURT OF COMPETENT JURISDICTION
24 DETERMINES THAT A PERSON WHO HAS CLAIMED LEGAL TITLE TO THE LAND HAS
25 ESTABLISHED LEGAL TITLE TO THE LAND.

26 (2) (i) Upon application by another governmental body, the
27 Commissioner may transfer the certificate to that body with the approval of the
28 Board of Public Works or the appropriate local authority, as the case may be.

29 (ii) In the absence of such a transfer, the Commissioner may issue a
30 patent for the land in accordance with the applicable procedures of this title.

31 13-107.

32 (A) IN THIS SECTION, "CLAIMANT" MEANS A PERSON WHO CLAIMS LEGAL
33 TITLE TO ~~UNPOSSESSED VACANT~~ ABANDONED LAND FOR WHICH A CERTIFICATE OF
34 RESERVATION FOR PUBLIC USE HAS BEEN ISSUED.

35 (B) IF ABANDONED LAND WAS PATENTED PRIOR TO THE ISSUANCE OF A
36 CERTIFICATE OF RESERVATION FOR PUBLIC USE BY A UNIT OF STATE GOVERNMENT,

1 A CLAIMANT MAY FILE A WRITTEN CLAIM FOR LEGAL TITLE TO THE LAND WITH THE
2 UNIT OF STATE GOVERNMENT THAT RESERVED THE LAND FOR PUBLIC USE.

3 (C) IF THE UNIT OF STATE GOVERNMENT THAT RESERVED THE LAND FOR
4 PUBLIC USE DETERMINES THAT THE CLAIMANT HAS LEGAL TITLE TO THE LAND, THE
5 UNIT OF STATE GOVERNMENT SHALL ~~EITHER~~:

6 (1) PAY THE CLAIMANT FAIR MARKET VALUE FOR THE LAND, AS
7 DETERMINED BY THE LOWER OF TWO INDEPENDENT APPRAISALS OF THE LAND; OR

8 (2) NOTIFY THE COMMISSIONER THAT THE LAND IS NO LONGER
9 NEEDED FOR PUBLIC USE.

10 (D) ANY ACTION TAKEN BY A UNIT OF STATE GOVERNMENT ~~PURSUANT TO~~
11 UNDER SUBSECTION (C) OF THIS SECTION IS SUBJECT TO APPROVAL BY THE BOARD
12 OF PUBLIC WORKS.

13 (E) (1) IF A UNIT OF STATE GOVERNMENT THAT RESERVED LAND FOR
14 PUBLIC USE DETERMINES THAT A CLAIMANT DOES NOT HAVE LEGAL TITLE TO THE
15 LAND, THE UNIT OF STATE GOVERNMENT SHALL ISSUE A WRITTEN DENIAL OF THE
16 CLAIMANT'S CLAIM.

17 (2) A CLAIMANT WHO IS AGGRIEVED BY THE DENIAL OF A CLAIM UNDER
18 THIS SECTION MAY FILE AN ACTION IN THE CIRCUIT COURT OF THE JURISDICTION
19 IN WHICH THE LAND IS LOCATED TO QUIET TITLE TO THE LAND.

20 (F) A CLAIM UNDER THIS SECTION IS BARRED UNLESS THE CLAIMANT FILES
21 THE CLAIM WITHIN 20 YEARS AFTER THE DATE THAT THE UNIT OF STATE
22 GOVERNMENT OBTAINS A CERTIFICATE OF RESERVATION FOR PUBLIC USE OF THE
23 LAND.

24 13-306.

25 (a) After the application is docketed, the Commissioner promptly shall issue
26 his warrant and mail it to the surveyor named in the application. On return through
27 the post office of the return receipt, the Commissioner shall notify the applicant of the
28 date the surveyor received the warrant.

29 (b) (1) In lieu of a survey conducted under a warrant issued by the
30 Commissioner, the applicant may submit with an application a previously performed
31 survey.

32 (2) The Commissioner may accept the previously performed survey upon
33 finding that the surveyor was a qualified professional land surveyor or property line
34 surveyor, that the survey was conducted in accordance with standards prescribed by
35 the Commissioner, and that adjoining landowners of record were given written notice
36 of the survey.

37 (3) In determining whether to accept a previously performed survey, the
38 Commissioner may conduct a hearing.

1 (4) Acceptance of a previously performed survey does not preclude an
2 objector from raising any objection that might otherwise have been raised had the
3 survey been performed pursuant to a warrant issued by the Commissioner.

4 (C) WITH RESPECT TO AN APPLICATION FOR A CERTIFICATE OF RESERVATION
5 FOR PUBLIC USE OF ~~UNPOSSESSED VACANT~~ ABANDONED LAND, INSTEAD OF A
6 SURVEY CONDUCTED UNDER A WARRANT ISSUED BY THE COMMISSIONER, THE
7 APPLICANT MAY SUBMIT A LEGAL DESCRIPTION OF THE LAND, PROVIDED THAT THE
8 LEGAL DESCRIPTION OF THE LAND IS SHOWN ON A PLAT ON FILE IN THE COUNTY
9 LAND RECORDS.

10 **Article - Estates and Trusts**

11 3-105.

12 (a) (1) (I) The provisions of this subsection are applicable if there is no
13 person entitled to take under §§ 3-102 through 3-104 of this subtitle.

14 (II) THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY TO ANY
15 PORTION OF A DECEDENT'S ESTATE THAT IS COMPRISED OF LAND THAT IS THE
16 SUBJECT OF AN APPLICATION FOR A CERTIFICATE OF RESERVATION FOR PUBLIC
17 USE UNDER TITLE 13, SUBTITLE 3 OF THE REAL PROPERTY ARTICLE.

18 (2) (i) If an individual was a recipient of long-term care benefits
19 under the Maryland Medical Assistance Program at the time of the individual's death,
20 the net estate shall be converted to cash and paid to the Department of Health and
21 Mental Hygiene, and shall be applied for the administration of the program.

22 (ii) If the provisions of subparagraph (i) of this paragraph are not
23 applicable, the net estate shall be converted to cash and paid to the board of education
24 in the county in which the letters were granted, and shall be applied for the use of the
25 public schools in the county.

26 (b) (1) After payment has been made to the Department of Health and
27 Mental Hygiene or to the board of education, if a claim for refund is filed by a relative
28 within the fifth degree living at the death of the decedent or by the personal
29 representative of the relative, and the claim is allowed, the claimant shall be entitled
30 to a refund, without interest, of the sum paid.

31 (2) A claim for refund under this subsection may not be filed after the
32 later of:

33 (i) 3 years after the death of the decedent; or

34 (ii) 1 year after the time of distribution of the property.

1

Article - Natural Resources

2 5-207.

3 (a) (1) The Department may purchase and manage lands in the name of the
4 State, suitable for forest culture, reserves, watershed protection, State parks, scenic
5 preserves, historic monuments, parkways, and State recreational reserves, using for
6 these purposes any special appropriation or surplus money not otherwise
7 appropriated, which is standing to the credit of the Forest Reserve or Park Reserve
8 Fund. However, an individual tract of land or easement in excess of 100 acres may not
9 be purchased in Garrett County, except with the approval of the County
10 Commissioners of that county. The Department may accept any gift of land in the
11 name of the State to be held, protected, and administered by the Department as State
12 parks, forests, or other reserves, and used to demonstrate the practical utility of the
13 land for recreational areas, State parks, scenic preserves, parkways, historic
14 monuments, timber culture, water conservation, and as a breeding place for wildlife.
15 Any gift shall be absolute except for the reservation of mineral and mining rights over
16 and under the land, and a stipulation that it shall be administered for State forest,
17 park, or recreation purposes.

18 (2) The Department shall meet its needs for land in Garrett County by
19 acquiring the land only from willing sellers, provided that the Department may
20 acquire by condemnation easements of the minimal extent necessary for access or
21 utility service to lands of the Department if there is no alternative location or means
22 of providing the access or service.

23 (3) THE DEPARTMENT MAY APPLY FOR A CERTIFICATE OF
24 RESERVATION FOR PUBLIC USE OF ~~UNPOSSESSED VACANT ABANDONED~~ LAND
25 PURSUANT TO UNDER TITLE 13 OF THE REAL PROPERTY ARTICLE.

26 (b) The Department may accept gifts, donations, or contributions of land from
27 the federal government or any of its agencies, enter into agreements with the federal
28 government or any of its agencies, and acquire by lease, purchase, or otherwise, lands
29 the Department deems suitable for State forests or parks. The Department may make
30 expenditures from any funds not otherwise obligated for the management,
31 development, and utilization of the lands. It may sell or dispose of products from the
32 lands, and make rules and regulations necessary to carry out the provisions of this
33 subsection. Any revenue received from the lands shall be paid into the State Treasury
34 to the credit of the Forest or Park Reserve Fund in accordance with the provisions of
35 § 5-212. However, at least 50 percent of the gross revenues derived from the lands
36 may be devoted to the payment of any obligations for the purchase incurred under the
37 provisions of this subsection, until the obligations are fully paid.

38 (c) Notwithstanding any other provision of law, a lease into which the
39 Department enters after July 1, 1979 for any land acquired under this title is not
40 subject to redemption of the tenant, unless the lease expressly provides otherwise.

41 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
42 October 1, 2003.

